

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6483

52nd Legislature
1992 Regular Session

Passed by the Senate March 11, 1992
Yeas 28 Nays 19

President of the Senate

Passed by the House March 12, 1992
Yeas 72 Nays 25

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6483** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6483

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Matson, Murray and Bluechel)

Read first time 03/06/92.

1 AN ACT Relating to weights and measures; amending RCW 19.94.010,
2 19.94.150, 19.94.160, 19.94.190, 19.94.220, 19.94.230, 19.94.240,
3 19.94.250, 19.94.330, 19.94.260, 19.94.280, 19.94.310, 19.94.320,
4 19.94.340, 19.94.350, 19.94.370, 19.94.440, 19.94.450, 19.94.460,
5 19.94.480, 19.94.490, 19.94.500, 19.94.505, 19.94.510, and 19.94.530;
6 adding new sections to chapter 19.94 RCW; creating a new section;
7 recodifying RCW 19.94.330; repealing RCW 19.94.020, 19.94.030,
8 19.94.040, 19.94.050, 19.94.060, 19.94.070, 19.94.080, 19.94.090,
9 19.94.100, 19.94.110, 19.94.120, 19.94.130, 19.94.140, 19.94.170,
10 19.94.180, 19.94.200, 19.94.210, 19.94.215, 19.94.270, 19.94.290,
11 19.94.300, and 19.94.380; prescribing penalties; and providing an
12 effective date.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14 NEW SECTION. **Sec. 1.** The legislature finds:

1 (1) The accuracy of weighing and measuring instruments and devices
2 used in commerce in the state of Washington affects every consumer
3 throughout the state and is of vital importance to the public interest.

4 (2) Fair weights and measures are equally important to business and
5 the consumer.

6 (3) A continuing study of this state's weights and measures program
7 is necessary to ensure that the program provides proper enforcement and
8 oversight to safeguard consumers, business, and interstate commerce.

9 (4) This chapter safeguards the consuming public and ensures that
10 businesses receive proper compensation for the commodities they
11 deliver.

12 NEW SECTION. Sec. 2. Until such time as the study in section
13 38 of this act is completed, it is the intent of the legislature that
14 consumer protection activities of the department of agriculture weights
15 and measures program be funded by the general fund and that device
16 inspection related activities be funded on a fee-for-service basis.

17 **Sec. 3.** RCW 19.94.010 and 1969 c 67 s 1 are each amended to read
18 as follows:

19 ~~((Terms used in this chapter shall have the meaning given to them
20 in RCW 19.94.020 through 19.94.130 unless where used the context shall
21 clearly indicate to the contrary.))~~ (1) Unless the context clearly
22 requires otherwise, the definitions in this section apply throughout
23 this chapter and to any rules adopted pursuant to this chapter.

24 (a) "City" means a first class city with a population of over fifty
25 thousand persons.

26 (b) "City sealer" means the person duly authorized by a city to
27 enforce and administer the weights and measures program within such

1 city and any duly appointed deputy sealer acting under the instructions
2 and at the direction of the city sealer.

3 (c) "Commodity in package form" means a commodity put up or
4 packaged in any manner in advance of sale in units suitable for either
5 wholesale or retail sale, exclusive, however, of an auxiliary shipping
6 container enclosing packages that individually conform to the
7 requirements of this chapter. An individual item or lot of any
8 commodity not in packaged form, but on which there is marked a selling
9 price based on established price per unit of weight or of measure,
10 shall be construed to be a commodity in package form.

11 (d) "Consumer package" or "package of consumer commodity" means a
12 commodity in package form that is customarily produced or distributed
13 for sale through retail sales agencies or instrumentalities for
14 consumption by persons, or used by persons for the purpose of personal
15 care or in the performance of services ordinarily rendered in or about
16 a household or in connection with personal possessions.

17 (e) "Cord" means the measurement of wood intended for fuel or pulp
18 purposes that is contained in a space of one hundred twenty-eight cubic
19 feet, when the wood is ranked and well stowed.

20 (f) "Department" means the department of agriculture of the state
21 of Washington.

22 (g) "Director" means the director of the department or duly
23 authorized representative acting under the instructions and at the
24 direction of the director.

25 (h) "Fish" means any waterbreathing animal, including shellfish,
26 such as, but not limited to, lobster, clam, crab, or other mollusca
27 that is prepared, processed, sold, or intended for sale.

28 (i) "Net weight" means the weight of a commodity excluding any
29 materials, substances, or items not considered to be part of such
30 commodity. Materials, substances, or items not considered to be part

1 of a commodity shall include, but are not limited to, containers,
2 conveyances, bags, wrappers, packaging materials, labels, individual
3 piece coverings, decorative accompaniments, and coupons.

4 (j) "Nonconsumer package" or "package of nonconsumer commodity"
5 means a commodity in package form other than a consumer package and
6 particularly a package designed solely for industrial or institutional
7 use or for wholesale distribution only.

8 (k) "Meat" means and shall include all animal flesh, carcasses, or
9 parts of animals, and shall also include fish, shellfish, game,
10 poultry, and meat food products of every kind and character, whether
11 fresh, frozen, cooked, cured, or processed.

12 (l) "Official seal of approval" means the uniform seal or
13 certificate issued by the director or city sealer which indicates that
14 a weights and measures standard or a weighing or measuring instrument
15 or device conforms with the specifications, tolerances, and other
16 technical requirements adopted in section 10 of this act.

17 (m) "Person" means any individual, receiver, administrator,
18 executor, assignee, trustee in bankruptcy, trust, estate, firm,
19 copartnership, joint venture, club, company, business trust,
20 corporation, association, society, or any group of individuals acting
21 as a unit, whether mutual, cooperative, fraternal, nonprofit, or
22 otherwise.

23 (n) "Poultry" means all fowl, domestic or wild, that is prepared,
24 processed, sold, or intended or offered for sale.

25 (o) "Service agent" means a person who for hire, award, commission,
26 or any other payment of any kind, installs, inspects, checks, adjusts,
27 repairs, reconditions, or systematically standardizes the graduations
28 of a weighing or measuring instrument or device.

29 (p) "Ton" means a unit of two thousand pounds avoirdupois weight.

1 (q) "Weighing or measuring instrument or device" means any
2 equipment or apparatus used commercially to establish the size,
3 quantity, capacity, count, extent, area, heaviness, or measurement of
4 quantities, things, produce, or articles for distribution or
5 consumption, that are purchased, offered or submitted for sale, hire,
6 or award on the basis of weight, measure or count, including any
7 accessory attached to or used in connection with a weighing or
8 measuring instrument or device when such accessory is so designed or
9 installed that its operation affects, or may effect, the accuracy or
10 indication of the device. This definition shall be strictly limited to
11 those weighing or measuring instruments or devices governed by Handbook
12 44 as adopted under section 10 of this act.

13 (r) "Weight" means net weight as defined in this section.

14 (s) "Weights and measures" means the recognized standards or units
15 of measure used to indicate the size, quantity, capacity, count,
16 extent, area, heaviness, or measurement of any consumable commodity.

17 (t) "Weights and measures standard" means any object used by the
18 director, a city sealer, or a service agent that under specified
19 conditions defines or represents a recognized weight or measure during
20 the inspection, adjustment, testing, or systematic standardization of
21 the graduations of any weighing or measuring instrument or device.

22 (2) The director shall prescribe by rule other definitions as may
23 be necessary for the implementation of this chapter.

24 **Sec. 4.** RCW 19.94.150 and 1991 sp.s. c 23 s 4 are each amended to
25 read as follows:

26 The system of weights and measures in customary use in the United
27 States and the metric system of weights and measures are jointly
28 recognized, and either one or both of these systems shall be used for
29 all commercial purposes in this state. The definitions of basic units

1 of weight and measure and weights and measures equivalents, as
2 published by the national institute of standards and technology or any
3 successor organization, are recognized and shall govern weighing
4 ~~((and))~~ or measuring ~~((equipment and transactions in the))~~ instruments
5 or devices used in commercial activities and other transactions
6 involving weights and measures within this state.

7 **Sec. 5.** RCW 19.94.160 and 1991 sp.s. c 23 s 5 are each amended to
8 read as follows:

9 Weights and measures standards that are in conformity with the
10 standards of the United States as have been supplied to the state by
11 the federal government or otherwise obtained by the state for use as
12 state weights and measures standards, shall, when the same shall have
13 been certified as such by the national institute of standards and
14 technology or any successor organization, be the state standards of
15 weight and measure. The state weights and measures standards shall be
16 kept in a place designated by the director and shall not be removed
17 from ~~((the said))~~ such designated place except for repairs or for
18 certification~~((:— PROVIDED, That they))~~. These state weights and
19 measures standards shall be submitted at least once ~~((in))~~ every ten
20 years to the national institute of standards and technology or any
21 successor organization for certification.

22 NEW SECTION. **Sec. 6.** (1) Unless otherwise provided by the
23 department, all weighing or measuring instruments or devices used for
24 commercial purposes within this state shall be inspected and tested for
25 accuracy by the director or city sealer at least once every two years
26 and, if found to be correct, the director or city sealer shall issue an
27 official seal of approval for each such instrument or device.

1 (2) Beginning fiscal year 1993, the schedule of inspection and
2 testing shall be staggered so as one-half of the weighing or measuring
3 instruments or devices under the jurisdiction of the inspecting and
4 testing authority are approved in odd fiscal years and the remaining
5 one-half are inspected and tested in even fiscal years.

6 (3) The department may provide, as needed, uniform, official seals
7 of approval to city sealers for the purposes expressed in this section.

8 NEW SECTION. **Sec. 7.** (1) The department shall establish
9 reasonable, biennial inspection and testing fees for each type or class
10 of weighing or measuring instrument or device required to be inspected
11 and tested under this chapter. These inspection and testing fees shall
12 be equitably prorated within each such type or class and shall be
13 limited to those amounts necessary for the department to cover, to the
14 extent possible, the direct costs associated with the inspection and
15 testing of each type or class of weighing or measuring instrument or
16 device.

17 (2) Prior to the establishment and each amendment of the fees
18 authorized under this chapter, a weights and measures fee task force
19 shall be convened under the direction of the department. The task
20 force shall be composed of a representative from the department who
21 shall serve as chair and one representative from each of the following:
22 City sealers, service agents, service stations, grocery stores,
23 retailers, food processors/dealers, oil heat dealers, the agricultural
24 community, and liquid propane dealers. The task force shall recommend
25 the appropriate level of fees to be assessed by the department pursuant
26 to subsection (1) of this section, based upon the level necessary to
27 cover the direct costs of administering and enforcing the provisions of
28 this chapter and to the extent possible be consistent with fees

1 reasonably and customarily charged in the private sector for similar
2 services.

3 (3) The fees authorized under this chapter may be billed only after
4 the director or a city sealer has issued an official seal of approval
5 for a weighing or measuring instrument or device or a weight or measure
6 standard.

7 (4) All fees shall become due and payable thirty days after billing
8 by the department or a city sealer. A late penalty of one and one-half
9 percent per month may be assessed on the unpaid balance more than
10 thirty days in arrears.

11 (5) Fees upon weighing or measuring instruments or devices within
12 the jurisdiction of the city that are collected under this section by
13 city sealers shall be deposited into the general fund, or other
14 account, of the city as directed by the governing body of the city. On
15 the thirtieth day of each month, city sealers shall, pursuant to
16 procedures established and upon forms provided by the director, remit
17 to the department for administrative costs ten percent of the total
18 fees collected.

19 (6) With the exception of subsection (7) of this section, no person
20 shall be required to pay more than the established inspection and
21 testing fee adopted under section 7 of this act for any weighing or
22 measuring instrument or device in any two-year period when the same has
23 been found to be correct.

24 (7) Whenever a special request is made by the owner for the
25 inspection and testing of a weighing or measuring instrument or device,
26 the fee prescribed by the director for such a weighing or measuring
27 instrument or device shall be paid by the owner.

28 NEW SECTION. **Sec. 8.** All moneys collected under this chapter
29 shall be placed in the weights and measures account hereby established

1 in the state treasury. Moneys deposited in this account may be spent
2 only following appropriation by law and shall be used solely for the
3 purposes of weighing or measuring instrument or device inspection and
4 testing.

5 **Sec. 9.** RCW 19.94.190 and 1991 sp.s. c 23 s 6 are each amended to
6 read as follows:

7 (1) The director and duly appointed city sealers shall enforce the
8 provisions of this chapter ((and)). The director shall adopt rules for
9 enforcing and carrying out the purposes of this chapter((. —Such rules
10 shall have the effect of law and may include (1))) including but not
11 limited to the following:

12 (a) Establishing state standards of ((net)) weight, measure, or
13 count, and reasonable standards of fill for any commodity in package
14 form((,(2)))i

15 (b) The ((governing)) establishment of technical and reporting
16 procedures to be followed, ((and the)) any necessary report and record
17 forms, and marks of rejection to be used by the director and city
18 sealers in the discharge of their official duties((,(3))) as required
19 by this chapter;

20 (c) The ((governing)) establishment of technical test procedures,
21 reporting procedures, and any necessary record and reporting forms to
22 be used by ((commercial firms)) service agents when installing,
23 repairing ((or testing commercial weights or measures, (4) the criteria
24 that all weights and measures used by commercial firms in repairing or
25 servicing commercial weighing and measuring devices shall be calibrated
26 by the department and be directly traceable to state standards and
27 shall be submitted to the department for calibration and certification
28 as necessary and/or at such reasonable intervals as may be established

1 ~~or required by the director, (5))~~, inspecting, or standardizing the
2 graduations of any weighing or measuring instruments or devices;

3 (d) The establishment of fee payment and reporting procedures and
4 any necessary report and record forms to be used by city sealers when
5 remitting the percentage of total fees collected as required under this
6 chapter;

7 (e) The establishment of exemptions from the sealing or marking
8 inspection and testing requirements of RCW 19.94.250 with respect to
9 ((weights and measures)) weighing or measuring instruments or devices
10 of such character or size that such sealing or marking would be
11 inappropriate, impracticable, or damaging to the apparatus in
12 question((, (6) provisions that allow the director to establish fees
13 for weighing, measuring, and providing calibration services performed
14 by the weights and measures laboratory, with all money collected under
15 this subsection paid to the director and deposited in an account within
16 the agricultural local fund to be used for the repair and maintenance
17 of weights and measures devices and other related functions, (7));

18 (f) The establishment of exemptions from the inspection and testing
19 requirements of ((RCW 19.94.200 and 19.94.210 for testing,)) section 6
20 of this act with respect to classes of ((weights and measures))
21 weighing or measuring instruments or devices found to be of such
22 character that periodic ((retesting)) inspection and testing is
23 unnecessary to ensure continued accuracy((-));

24 (g) The establishment of inspection and approval techniques, if
25 any, to be used with respect to classes of weighing or measuring
26 instruments or devices that are designed specifically to be used
27 commercially only once and then discarded, or are uniformly
28 mass-produced by means of a mold or die and are not individually
29 adjustable.

1 (2) These rules shall also include specifications~~((7))~~ and
2 tolerances~~((, and rules))~~ for ~~((weights and measures of the character~~
3 ~~of those specified in RCW 19.94.210,))~~ the acceptable range of accuracy
4 required of weighing or measuring instruments or devices and shall be
5 designed to eliminate from use, without prejudice to ~~((apparatus))~~
6 weighing or measuring instruments or devices that conform~~((s))~~ as
7 closely as practicable to ~~((the))~~ official ~~((standards))~~ specifications
8 and tolerances, those (a) ~~((that are not accurate, (b)))~~ that are of
9 such construction that they are faulty, that is, that are not
10 reasonably permanent in their adjustment or will not repeat their
11 indications correctly, or ~~((e))~~ (b) that facilitate the perpetration
12 of fraud. ~~((The specifications, tolerances, and rules for commercial~~
13 ~~weighing and measuring devices, together with amendments thereto, as~~
14 ~~recommended by the most recent edition of Handbook 44 published by the~~
15 ~~national institute of standards and technology shall be the~~
16 ~~specifications, tolerances, and regulations for commercial weighing~~
17 ~~and/or measuring devices of the state. To promote uniformity, any~~
18 ~~supplements or amendments to Handbook 44 or any similar subsequent~~
19 ~~publication of the national institute of standards and technology shall~~
20 ~~be deemed to have been adopted under this section. The director may,~~
21 ~~however, within thirty days of the publication or effective date of~~
22 ~~Handbook 44 or any supplements, amendments, or similar publications~~
23 ~~give public notice that a hearing will be held to determine if such~~
24 ~~publications should not be applicable under this section. The hearing~~
25 ~~shall be conducted under chapter 34.05 RCW. For the purpose of this~~
26 ~~chapter, apparatus shall be deemed to be "correct" when it conforms to~~
27 ~~all applicable requirements promulgated as specified in this section;~~
28 ~~all other apparatus shall be deemed to be "incorrect".))~~

1 NEW SECTION. **Sec. 10.** (1) The department shall adopt the
2 specifications, tolerances, and other technical requirements for
3 commercial weighing or measuring instruments or devices, together with
4 amendments thereto, as recommended by the most recent edition of
5 Handbook 44 published by the national institute of standards and
6 technology or any successor organization as the specifications,
7 tolerances, and other technical requirements for commercial weighing or
8 measuring instruments or devices commercially used in this state.

9 (2)(a) To promote uniformity, any supplements or amendments to
10 Handbook 44 or any similar subsequent publication of the national
11 institute of standards and technology or any successor organization
12 shall be deemed to have been adopted under this section.

13 (b) The director may, however, within thirty days of the
14 publication or effective date of Handbook 44 or any supplements,
15 amendments, or similar publications give public notice that a hearing
16 will be held to determine if such publications should not be applicable
17 under this section. Any such hearing shall be conducted under chapter
18 34.05 RCW.

19 NEW SECTION. **Sec. 11.** For the purposes of this chapter,
20 weighing or measuring instruments or devices and weights and measures
21 standards shall be deemed to be "correct" when they conform to all
22 applicable requirements of this chapter or the requirements of any rule
23 adopted by the department under the authority granted in this chapter;
24 all other weighing or measuring instruments or devices and weights and
25 measures standards shall be deemed to be "incorrect."

26 NEW SECTION. **Sec. 12.** The department shall:

27 (1) Biennially inspect and test the weights and measures standards
28 of any city for which the appointment of a city sealer is provided by

1 this chapter and shall issue an official seal of approval for same when
2 found to be correct. The department shall, by rule, establish a
3 reasonable fee for such inspection and testing services performed by
4 the department's metrology laboratory.

5 (2) Biennially inspect, test, and, if found to be correct, issue an
6 official seal of approval for any weighing or measuring instrument or
7 device used in an agency or institution to which moneys are
8 appropriated by the legislature or of the federal government and shall
9 report any findings in writing to the executive officer of the agency
10 or institution concerned. The department shall collect a reasonable
11 fee, to be set by rule, for testing any such weighing or measuring
12 instrument or device.

13 (3) Inspect, test, and, if found to be correct, issue a seal of
14 approval for classes of weighing or measuring instruments or devices
15 found to be few in number, highly complex, and of such character that
16 differential inspection and testing frequency is necessary including,
17 but not limited to, railroad track scales and grain elevator scales.
18 The department shall develop rules regarding the inspection and testing
19 procedures to be used for such weighing or measuring instruments or
20 devices which shall include requirements for the provision,
21 maintenance, and transport of any weight or measure standard necessary
22 for inspection and testing at no expense to the state. The department
23 may collect a reasonable fee, to be set by rule, for inspecting and
24 testing any such weighing and measuring instruments or devices. This
25 fee shall not be unduly burdensome and shall cover, to the extent
26 possible, the direct costs of performing such service.

27 **Sec. 13.** RCW 19.94.220 and 1991 sp.s. c 23 s 8 are each amended to
28 read as follows:

1 In promoting the general objective of ensuring accuracy of weighing
2 or measuring instruments or devices and the proper representation of
3 weights and measures in commercial transactions, the director or a city
4 sealer shall, upon his or her own initiative and as he or she deems
5 appropriate and advisable, investigate complaints made concerning
6 violations of the provisions of this chapter~~((, and shall, upon his or~~
7 ~~her own initiative, conduct such investigations as deemed appropriate~~
8 ~~and advisable to develop information on prevailing procedures in~~
9 ~~commercial quantity determination and on possible violations of the~~
10 ~~provisions of this chapter and to promote the general objective of~~
11 ~~accuracy in the determination and representation of quantity in~~
12 ~~commercial transactions))~~.

13 **Sec. 14.** RCW 19.94.230 and 1969 c 67 s 23 are each amended to read
14 as follows:

15 (1) The director ~~((shall))~~ or a city sealer may, from time to time,
16 ~~((weigh or measure and))~~ inspect and test packages or amounts of
17 commodities kept, offered, exposed for sale, sold, or in the process of
18 delivery to determine whether the same contain the amounts represented
19 and whether they ~~((be))~~ are kept, offered, exposed for sale or sold in
20 accordance with law~~((; and))~~. When such packages or amounts of
21 commodities are found not to contain the amounts represented or are
22 found to be kept, offered, or exposed for sale or sold in violation of
23 law, the director or city sealer may order them off sale and may mark,
24 tag, or stamp them in a manner prescribed by ~~((him))~~ the department.

25 (2) In carrying out the provisions of this section, the director or
26 city sealer may employ recognized sampling procedures under which the
27 compliance of a given lot of packages will be determined on the basis
28 of a result obtained on a sample selected from and representative of
29 such lot.

1 (3) No person shall ~~((1))~~ (a) sell, keep, offer, or expose for
2 sale any package or amount of commodity that has been ordered off sale
3 as provided in this section unless and until such package or amount of
4 commodity has been brought into full compliance with legal requirements
5 or ~~((2))~~ (b) dispose of any package or amount of commodity that has
6 been ordered off sale and that has not been brought into compliance
7 with legal requirements in any manner except with the specific written
8 approval of the director or city sealer who issued such off sale order.

9 **Sec. 15.** RCW 19.94.240 and 1991 sp.s. c 23 s 9 are each amended to
10 read as follows:

11 (1) The director or a city sealer shall have the power to issue
12 stop-use orders, stop-removal orders, and removal orders with respect
13 to ~~((weights and measures))~~ weighing or measuring devices being, or
14 susceptible of being, commercially used~~((, and to))~~ within this state.

15 (2) The director or a city sealer shall also have the power to
16 issue stop-removal orders and removal orders with respect to packages
17 or amounts of commodities kept, offered, exposed for sale, sold, or in
18 process of delivery~~((,))~~.

19 (3) The director or a city sealer shall issue such orders whenever
20 in the course of his or her enforcement of the provisions of this
21 chapter or rules adopted hereunder he or she deems it necessary or
22 expedient to issue such orders.

23 (4) No person shall use, remove from the premises specified, or
24 fail to remove from any premises specified any ~~((weight, measure, or~~
25 package)) weighing or measuring instrument or device, commodity in
26 packaged form, or amount of commodity contrary to the terms of a stop-
27 use order, stop-removal order or removal order, issued under the
28 authority of this section.

1 **Sec. 16.** RCW 19.94.250 and 1991 sp.s. c 23 s 10 are each amended
2 to read as follows:

3 (1) The director or a city sealer shall (~~reject and mark or tag as~~
4 ~~"rejected" such weights and measures as he or she finds upon inspection~~
5 ~~or test to be "incorrect" as defined in RCW 19.94.190, but which in his~~
6 ~~or her best judgment are susceptible of satisfactory repair: PROVIDED,~~
7 ~~That such sealing or marking shall not be required with respect to such~~
8 ~~weights and measures as may be exempted therefrom by rule of the~~
9 ~~director issued under the authority of RCW 19.94.190)), from time to
10 time, inspect any weighing or measuring instrument or device, except
11 those weighing or measuring instruments or devices exempted under the
12 authority of RCW 19.94.190, to determine if it is correct. If the
13 director or a city sealer discovers upon inspection that a weighing or
14 measuring instrument or device is "incorrect," but in his or her best
15 judgment is susceptible of satisfactory repair, he or she shall reject
16 and mark or tag as rejected any such weighing or measuring instrument
17 or device.~~

18 (2) The director or a city sealer may reject or seize any (~~weights~~
19 ~~and measures)) weighing or measuring instrument or device found to be
20 incorrect that, in his or her best judgment, (~~are~~) is not susceptible
21 of satisfactory repair. (~~Weights and measures~~)~~

22 (3) Weighing or measuring instruments or devices that have been
23 rejected under subsection (1) of this section may be confiscated and
24 may be destroyed by the director or a city sealer if not corrected as
25 required by RCW 19.94.330 as recodified by this act or if used or
26 disposed of contrary to the requirements of (~~said~~) that section.

27 **Sec. 17.** RCW 19.94.330 and 1991 sp.s. c 23 s 14 are each amended
28 to read as follows:

1 (~~(Weights and measures)~~) (1) Weighing or measuring instruments or
2 devices that have been rejected under the authority of the director or
3 a city sealer shall remain subject to the control of the rejecting
4 authority until such time as suitable repair or disposition thereof has
5 been made as required by this section.

6 (2) The owner(~~(s)~~) of (~~(such rejected weights and measures)~~) any
7 weighing or measuring instrument or device that has been marked or
8 tagged as rejected by the director or a city sealer shall cause the
9 same to be made correct within thirty days or such longer period as may
10 be authorized by the rejecting authority(~~(i or r)~~). In lieu of
11 (~~(this r)~~) correction, the owner of such weighing and measuring
12 instrument or device may dispose of the same, but only in (~~(such a)~~)
13 the manner (~~(as is)~~) specifically authorized by the rejecting
14 authority. (~~(Weights and measures)~~)

15 (3) Weighing and measuring instruments or devices that have been
16 rejected shall not again be used commercially until they have been
17 officially reexamined (~~(or until standardized corrective measures have~~
18 ~~been instituted as prescribed by rule as adopted by the department)~~)
19 and, if found to be correct, had an official seal of approval placed
20 upon or issued for such weighing or measuring instrument or device by
21 the rejecting authority.

22 **Sec. 18.** RCW 19.94.260 and 1991 sp.s. c 23 s 11 are each amended
23 to read as follows:

24 (1) With respect to the enforcement of this chapter and any other
25 acts dealing with weights and measures that he or she is, or may be
26 empowered to enforce, the director (~~(is authorized to)~~) or a city
27 sealer may reject or seize for use as evidence incorrect (~~(or unsealed~~
28 weights and measures or amounts) weighing or measuring instruments or

1 devices or packages of commodities to be used, retained, offered,
2 exposed for sale, or sold in violation of the law.

3 (2) In the performance of his or her official duties conferred
4 under this chapter, the director or a city sealer is authorized at
5 reasonable times during the normal business hours of the person using
6 ~~((the weights and measures))~~ a weighing or measuring instrument or
7 device to enter into or upon any structure or premises where ~~((weights~~
8 ~~and measures are))~~ such weighing or measuring instrument or device is
9 used or kept for commercial purposes. ~~((Should))~~ If the director
10 ~~((be))~~ or a city sealer is denied access to any premises or
11 establishment where such access was sought for the purposes set forth
12 in this ~~((section))~~ chapter, the director or a city sealer may apply to
13 any court of competent jurisdiction for a search warrant authorizing
14 access to such premises or establishment for ~~((said))~~ such purposes.
15 The court may, upon such application, issue the search warrant for the
16 purposes requested.

17 NEW SECTION. Sec. 19. (1) Any person aggrieved by any official
18 action of the department or a city sealer conferred under this chapter,
19 including but not limited to, "stop-use orders," "stop-removal orders,"
20 "removal orders," "condemnation," or "off sale order" may within thirty
21 days after an order is given or any action is taken, petition the
22 director for a hearing to determine the matter. Such proceedings and
23 any appeal therefrom shall be taken in accordance with the
24 administrative procedure act, chapter 34.05 RCW.

25 (2) The director shall give due notice and hold a hearing within
26 ten days after the confiscation or seizure of any weighing or measuring
27 instrument or device or commodity under RCW 19.94.250 or the seizure of
28 any weighing or measuring instrument or device for evidence under RCW
29 19.94.260. This hearing shall be for the purposes of determining

1 whether any such weighing or measuring instrument or device or
2 commodity was properly confiscated or seized, to determine whether or
3 not such weighing or measuring instrument or device or commodity was
4 used for, or is in, violation of any provision of this chapter or to
5 determine the disposition to be made of such weighing or measuring
6 instrument or device or commodity. Such proceedings and any appeal
7 therefrom shall be taken in accordance with the administrative
8 procedure act, chapter 34.05 RCW.

9 (3) The department may by rule establish procedures for the
10 administration of this section.

11 **Sec. 20.** RCW 19.94.280 and 1969 c 67 s 28 are each amended to read
12 as follows:

13 (1) There (~~shall~~) may be a city sealer (~~of weights and~~
14 ~~measures~~) in every city and such deputies as may be required by
15 ordinance of each such city (~~governed by this chapter. Such sealer~~
16 ~~and such deputies shall in any such city be appointed by, and they~~
17 ~~shall hold office subject to applicable local civil service laws and~~
18 ~~regulations; otherwise they shall be appointed by the mayor, or other~~
19 ~~chief executive officer of such city, by and with the advice and~~
20 ~~consent of the governing body of such city, and they may be removed for~~
21 ~~cause in the same manner~~) to administer and enforce the provisions of
22 this chapter.

23 (2) Each city electing to have a city sealer shall adopt rules for
24 the appointment and removal of the city sealer and any deputies
25 required by local ordinance. The rules for appointment of a city
26 sealer and any deputies must include provisions for the advice and
27 consent of the local governing body of such city and, as necessary, any
28 provisions for local civil service laws and regulations.

1 (3) A city sealer shall adopt the fee amounts established by the
2 director pursuant to section 6 of this act. No city shall adopt or
3 charge an inspection, testing, or licensing fee or any other fee upon
4 a weighing or measuring instrument or device that is in excess of the
5 fee amount adopted under section 6 of this act.

6 (4) A city sealer shall keep a complete and accurate record of all
7 official acts performed under the authority of this chapter and shall
8 submit an annual report to the governing body of his or her city and
9 shall make any reports as may be required by the director.

10 **Sec. 21.** RCW 19.94.310 and 1969 c 67 s 31 are each amended to read
11 as follows:

12 (1) The ((council or other)) governing body of each city for which
13 a city sealer has been appointed as provided for by RCW 19.94.280 shall
14 ((+1)):

15 (a) Procure at the expense of the city ((such standards of weight
16 and measure and such additional equipment, to be used)) the official
17 weights and measures standards and any field weights and measures
18 standards necessary for the administration and enforcement of the
19 provisions of this chapter ((in such city, as)) or any rule that may be
20 prescribed by the director; ((+2))

21 (b) Provide a suitable office for the city sealer and any deputies
22 that have been duly appointed; and ((+3))

23 (c) Make provision for the necessary clerical services, supplies,
24 transportation and for defraying contingent expenses incidental to the
25 official activities of the city sealer and his or her deputies in
26 carrying out the provisions of this chapter.

27 (2) When the ((standards of weight and measure)) acquisition of the
28 official weights and measures standards required ((by this)) under
29 subsection (1)(a) of this section ((to be provided by a city shall

1 ~~have)) has been made and such weights and measures standards have been~~
2 ~~examined and approved by the director, they shall be the ((official))~~
3 ~~certified weights and measures standards for such city. ((It shall be~~
4 ~~the duty of))~~

5 (3) In order to maintain field weights and measure standards in
6 accurate condition, the city sealer ((to make, or to arrange to have
7 made, at least as frequently as once a year, comparisons between his
8 field standards and appropriate standards of a higher order belonging
9 to his city or to the state, in order to maintain such field standards
10 in accurate condition)) shall, at least once every two years, compare
11 the field weights and measures standards used within his or her city to
12 the certified weights and measures standards of such city or to the
13 official weights and measures standards of this state.

14 **Sec. 22.** RCW 19.94.320 and 1969 c 67 s 32 are each amended to read
15 as follows:

16 (1) In cities for which city sealers ((of weights and measures))
17 have been appointed as provided for in this chapter, the director shall
18 have general supervisory powers over such city sealers and may, when he
19 or she deems it reasonably necessary, exercise concurrent authority to
20 carry out the provisions of this chapter.

21 (2) When the director elects to exercise concurrent authority
22 within a city with a duly appointed city sealer, the director's powers
23 and duties relative to ((weights and measures contained in)) this
24 chapter shall be in addition to the powers granted ((to)) in any such
25 city by law or charter.

26 NEW SECTION. **Sec. 23.** (1) Except as otherwise provided for in
27 this chapter or in any rule adopted under the authority of this
28 chapter, any person who engages in business within this state as a

1 service agent shall biennially submit to the department for inspection
2 and testing all weights and measures standards used by the service
3 agent, or any agent or employee of the service agent. If the
4 department finds such weights and measures standards to be correct, the
5 director shall issue an official seal of approval for each such
6 standard.

7 (2) The department may by rule adopt reasonable fees for the
8 inspection and testing services performed by the weights and measures
9 laboratory pursuant to this section.

10 (3) A service agent shall not use in the installation, inspection,
11 adjustment, repair, or reconditioning of any weighing or measuring
12 instrument or device any weight or measure standard that does not have
13 a valid, official seal of approval from the director. Any service
14 agent who violates this section is subject to a civil penalty of no
15 more than five hundred dollars.

16 **Sec. 24.** RCW 19.94.340 and 1991 sp.s. c 23 s 15 are each amended
17 to read as follows:

18 (1) Except as provided in subsection (2) of this section,
19 commodities in liquid form shall be sold only by liquid measure or by
20 weight, and, except as otherwise provided in this chapter, commodities
21 not in liquid form shall be sold only by weight, by measure of length
22 or area, or by count(~~(:—PROVIDED, That)~~)).

23 (2) Liquid commodities may be sold by weight and commodities not in
24 liquid form may be sold by count only if such methods ((give)) provide
25 accurate information as to the quantity of commodity sold(~~(:—AND~~
26 PROVIDED FURTHER, That))).

27 (3) The provisions of this section shall not apply ((+1)) to:

28 (a) Commodities ((when)) that are sold for immediate consumption on
29 the premises where sold(~~(, (2) to)~~);

1 (b) Vegetables when sold by the head or bunch(~~((, (3) to))~~);

2 (c) Commodities in containers standardized by a law of this state
3 or by federal law(~~((, (4) to))~~);

4 (d) Commodities in package form when there exists a general
5 consumer usage to express the quantity in some other manner(~~((, (5)
6 to))~~);

7 ~~(e) Concrete aggregates, concrete mixtures, and loose solid
8 materials such as earth, soil, gravel, crushed stone, and the like,
9 when sold by cubic measure(~~((, or (6) to))~~); or~~

10 (f) Unprocessed vegetable and animal fertilizer when sold by cubic
11 measure.

12 (4) The director may issue such reasonable rules as are necessary
13 to assure that amounts of commodity sold are determined in accordance
14 with good commercial practice and are so determined and represented to
15 be accurate and informative to all interested parties.

16 **Sec. 25.** RCW 19.94.350 and 1991 sp.s. c 23 s 16 are each amended
17 to read as follows:

18 (1) Except as otherwise provided in this chapter, any commodity in
19 package form introduced or delivered for introduction into or received
20 in intrastate commerce, kept for the purpose of sale, offered or
21 exposed for sale or sold in intrastate commerce, shall bear on the
22 outside of the package such definite, plain, and conspicuous
23 declaration of ~~((+1))~~;

24 (a) The identity of the commodity ~~((in))~~ contained within the
25 package unless the same can easily be identified through the ~~((wrapper
26 or container))~~ package; ~~((+2))~~

27 (b) The net quantity of the contents in terms of weight, measure or
28 count; and ~~((+3))~~

1 (c) In the case of any package not sold on the premises where
2 packed, the name and place of business of the manufacturer, packer, or
3 distributor, as may be prescribed by rule issued by the director(~~(+~~
4 ~~PROVIDED, That)~~)).

5 (2) In connection with the declaration required under subsection
6 (~~(+2)~~) (1)(b) of this section, neither the qualifying term "when
7 packed" or any words of similar import, nor any term qualifying a unit
8 of weight, measure, or count (for example, "jumbo", "giant", "full",
9 "or over", and the like) that tends to exaggerate the amount of
10 commodity in a package, shall be used(~~(+ AND PROVIDED FURTHER, That)~~)).

11 (3) With respect to the declaration required under subsection
12 (~~(+2)~~) (1)(b) of this section the director shall by rule establish:
13 (a) Reasonable variations to be allowed, (b) exemptions as to small
14 packages, and (c) exemptions as to commodities put up in variable
15 weights or sizes for sale to the consumer intact and either customarily
16 not sold as individual units or customarily weighed or measured at time
17 of sale to the consumer.

18 **Sec. 26.** RCW 19.94.370 and 1969 c 67 s 37 are each amended to read
19 as follows:

20 No commodity in package form shall be so wrapped, nor shall it be
21 in a container so made, formed or filled as to mislead the purchaser as
22 to the quantity of the contents of the package, and the contents of a
23 container shall not fall below such reasonable standards of fill as may
24 have been prescribed by the director for the commodity in question (~~by~~
25 ~~the director~~)).

26 **Sec. 27.** RCW 19.94.440 and 1991 sp.s. c 23 s 18 are each amended
27 to read as follows:

1 (1) When a vehicle delivers to an individual purchaser a commodity
2 in bulk, and the commodity is sold in terms of weight units, the
3 delivery (~~shall~~) must be accompanied by a duplicate delivery ticket
4 with the following information clearly stated, in ink or other
5 indelible marking equipment and, in clarity, equal to type or printing:
6 (~~(1)~~)

7 (a) The name and address of the vendor(~~(1)~~);

8 (b) The name and address of the purchaser(~~(1)~~) and (~~(2)~~);

9 (c) The (~~net~~) weight of the delivery expressed in pounds, and, if
10 the (~~net~~) weight is derived from determinations of gross and tare
11 weights, such gross and tare weights also (~~shall~~) must be stated in
12 terms of pounds.

13 (2) One of (~~these~~) the delivery tickets shall be retained by the
14 vendor, and the other shall be delivered to the purchaser at the time
15 of delivery of the commodity, or shall be surrendered on demand to the
16 director (~~or the deputy director or the inspector,~~) or the city
17 sealer (~~or deputy sealer,~~) who, if he or she (~~desires~~) elects to
18 retain it as evidence, shall issue a weight slip in lieu thereof for
19 delivery to the purchaser(~~(:—PROVIDED, That)~~).

20 (3) If the purchaser himself or herself carries away the purchase,
21 the vendor shall be required only to give the purchaser at the time of
22 sale a delivery ticket stating the number of pounds of commodity
23 delivered (~~to the purchaser~~).

24 **Sec. 28.** RCW 19.94.450 and 1991 sp.s. c 23 s 19 are each amended
25 to read as follows:

26 (1) Except as provided in subsection (2) of this section, all solid
27 fuels such as, but not limited to, coal, coke, charcoal, broiler chips,
28 pressed fuels and briquets shall be sold by weight(~~(:—PROVIDED,~~
29 ~~That)~~).

1 (2) All solid fuels such as hogged fuel, sawdust and similar
2 industrial fuels may be sold or purchased by cubic measure.

3 (3) Unless ~~((the))~~ a fuel is delivered to the purchaser in package
4 form, each delivery of ~~((coal, coke, or charcoal))~~ such fuel to an
5 individual purchaser ~~((shall))~~ must be accompanied by a duplicate
6 delivery ticket~~((s on which))~~ with the following information clearly
7 stated, in ink or other indelible ~~((substance, there shall be clearly~~
8 ~~stated—(1))~~ marking equipment and, in clarity equal to type or
9 printing:

10 (a) The name and address of the vendor; ~~((+2))~~

11 (b) The name and address of the purchaser; and ~~((+3))~~

12 (c) The ~~((net))~~ weight of the delivery and the gross and tare
13 weights from which the ~~((net))~~ weight is computed, each expressed in
14 pounds.

15 (4) One of ~~((these))~~ the delivery tickets shall be retained by the
16 vendor and the other shall be delivered to the purchaser at the time of
17 delivery of the fuel, or shall be surrendered, on demand, to the
18 director ~~((or his or her deputy or inspector or a))~~ or the city sealer
19 ~~((or deputy sealer))~~ who, if he or she ~~((desires))~~ elects to retain it
20 as evidence, shall issue a weight slip in lieu thereof for delivery to
21 the purchaser~~((:—PROVIDED, That))~~.

22 (5) If the purchaser himself or herself carries away the purchase,
23 the vendor shall be required only to give to the purchaser at the time
24 of sale a delivery ticket stating the number of pounds of fuel
25 delivered ~~((to the purchaser))~~.

26 **Sec. 29.** RCW 19.94.460 and 1969 c 67 s 46 are each amended to read
27 as follows:

1 (1) All stove and furnace oil shall be sold by liquid measure or by
2 ~~((net))~~ weight in accordance with the provisions of RCW 19.94.340.
3 ~~((In the case of each delivery of such liquid fuel not))~~

4 (2) Unless such fuel is delivered to the purchaser in package form,
5 ~~((and))~~ each delivery of such fuel in an amount greater than ten
6 gallons in the case of sale by liquid measure or one hundred pounds in
7 the case of sale by weight ~~((, there shall be rendered to the purchaser,~~
8 ~~either (a) at the time of delivery or (b) within a period mutually~~
9 ~~agreed upon in writing or otherwise between the vendor and the~~
10 ~~purchaser,~~) must be accompanied by a delivery ticket or a written
11 statement on which, in ink or other indelible substance, there shall be
12 clearly and legibly stated ~~((+1))~~:

13 (a) The name and address of the vendor; ~~((+2))~~

14 (b) The name and address of the purchaser; ~~((+3))~~

15 (c) The identity of the type of fuel comprising the delivery;
16 ~~((+4))~~

17 (d) The unit price (that is, price per gallon or per pound, as the
18 case may be), of the fuel delivered; ~~((+5))~~

19 (e) In the case of sale by liquid measure, the liquid volume of the
20 delivery together with any meter readings from which such liquid volume
21 has been computed, expressed in terms of the gallon and its binary or
22 decimal subdivisions; and ~~((+6))~~

23 (f) In the case of sale by weight, the net weight of the delivery,
24 together with any weighing scale readings from which such net weight
25 has been computed, expressed in terms of tons or pounds avoirdupois.

26 (3) The delivery ticket required under this section must be
27 delivered at the time of delivery unless an agreement, written or
28 otherwise, between the vendor and the purchaser has been reached
29 regarding the delivery of such delivery ticket.

1 **Sec. 30.** RCW 19.94.480 and 1969 c 67 s 48 are each amended to read
2 as follows:

3 Fractional parts of any unit of weight or measure shall mean like
4 fractional parts of the value of such unit as prescribed (~~(or defined)~~)
5 in RCW (~~(19.94.070, 19.94.090 and)~~) 19.94.150(~~(, and all contracts~~
6 ~~concerning the sale of commodities and services shall be construed in~~
7 ~~accordance with this requirement)~~).

8 NEW SECTION. **Sec. 31.** All contracts concerning the sale of
9 commodities and services by weight, measure, or count, will be
10 construed in accordance with the weights and measures adopted under
11 this chapter.

12 **Sec. 32.** RCW 19.94.490 and 1969 c 67 s 49 are each amended to read
13 as follows:

14 Any person who shall hinder or obstruct in any way the
15 director(~~(,)~~) or a city sealer (~~(or deputy sealer,)~~) in the performance
16 of his or her official duties(~~(, shall be guilty of a misdemeanor, and~~
17 ~~upon conviction thereof shall be punished by a fine of not less than~~
18 ~~twenty dollars or more than two hundred dollars, or by imprisonment in~~
19 ~~the county jail for not more than three months, or by both such fine~~
20 ~~and imprisonment)) under this chapter is subject to a civil penalty of
21 no more than five hundred dollars.~~

22 **Sec. 33.** RCW 19.94.500 and 1969 c 67 s 50 are each amended to read
23 as follows:

24 Any person who shall impersonate in any way the director(~~(,)~~) or a
25 city sealer (~~(or a deputy sealer)~~), by (~~(the use of his)~~) using an
26 official seal of approval without specific authorization to do so or by
27 using a counterfeit ((of his)) seal of approval, or in any other

1 manner, (~~shall be guilty of a misdemeanor, and upon conviction thereof~~
2 ~~shall be punished by a fine of not less than one hundred dollars or~~
3 ~~more than five hundred dollars or by imprisonment in the county jail~~
4 ~~for not more than one year, or by both such fine and imprisonment~~)) is
5 subject to a civil penalty of no more than one thousand dollars.

6 **Sec. 34.** RCW 19.94.505 and 1984 c 61 s 1 are each amended to read
7 as follows:

8 (1) It is unlawful for any dealer or service station, as both are
9 defined in RCW 82.36.010, to sell ethanol and/or methanol at one
10 percent, by volume, or greater in gasoline for use as motor vehicle
11 fuel unless the dispensing device has a label stating the type and
12 maximum percentage of alcohol contained in the motor vehicle fuel.

13 (2) In any county, city, or other political subdivision designated
14 as a carbon monoxide nonattainment area pursuant to the provisions of
15 subchapter I of the Clean Air Act Amendments of 1990, P.L. 101-549, and
16 in which the sale of oxygenated petroleum products is required by
17 section 211(m) of the Clean Air Act Amendments of 1990, 42 U.S.C.
18 7545(m), any dealer or service station, as both are defined in RCW
19 82.36.010, who sells or dispenses a petroleum product that contains at
20 least one percent, by volume, ethanol, methanol, or other oxygenate,
21 shall post only such label or notice as may be required pursuant to 42
22 U.S.C. 7545(m)(4) or any amendments thereto or any successor provision
23 thereof. This provision shall be applicable only during such portion
24 of the year as oxygenated petroleum product sales are required pursuant
25 to 42 U.S.C. 7545(m).

26 (~~Violation of~~)) (3) Any person who violates this section is ((a
27 misdemeanor)) subject to a civil penalty of no more than five hundred
28 dollars.

1 **Sec. 35.** RCW 19.94.510 and 1969 c 67 s 51 are each amended to read
2 as follows:

3 (1) Any person who, by himself or herself, by his ~~((servant or))~~ or
4 her agent or employee, or as the ~~((servant or))~~ agent or employee of
5 another person, performs any one of the acts enumerated in
6 ~~((subsections (1)))~~ (a) through ((9) below, shall be guilty of a
7 misdemeanor and upon a second or subsequent conviction thereof he shall
8 be guilty of a gross misdemeanor.)) (k) of this subsection is subject
9 to a civil penalty of no more than one thousand dollars:

10 ~~((1))~~ (a) Use or have in possession for the purpose of using for
11 any commercial purpose ~~((specified in RCW 19.94.210,))~~ a weighing or
12 measuring instrument or device that is intentionally calculated to
13 falsify any weight, measure, or count of any commodity, or to sell,
14 offer, expose for sale or hire or have in possession for the purpose of
15 selling or hiring an incorrect ~~((weight or measure or any device or~~
16 ~~instrument used or))~~ weighing or measuring instrument or device or any
17 weighing or measuring instrument or device calculated to falsify any
18 weight or measure.

19 ~~((2))~~ (b) Knowingly use or have in possession for current use in
20 the buying or selling of any commodity or thing, for hire or award, or
21 in the computation of any basic charge or payment for services rendered
22 on the basis of weight ~~((or)),~~ measurement, or count, or in the
23 determination of weight ~~((or)),~~ measurement or count, when a charge is
24 made for such determination, any incorrect ~~((weight or measure))~~
25 weighing or measuring instrument or device.

26 ~~((3))~~ (c) Dispose of any rejected ~~((or condemned weight or~~
27 ~~measure))~~ weighing or measuring instrument or device in a manner
28 contrary to law or ~~((regulation))~~ rule.

29 ~~((4))~~ (d) Remove from any ~~((weight or measure))~~ weighing or
30 measuring instrument or device, contrary to law or ~~((regulation))~~ rule,

1 any tag, seal, stamp or mark placed thereon by the director(~~(7)~~) or a
2 city sealer (~~(or deputy sealer)~~).

3 ~~((5))~~ (e) Sell, offer or expose for sale less than the quantity
4 he or she represents of any commodity, thing or service.

5 ~~((6))~~ (f) Take more than the quantity he or she represents of any
6 commodity, thing, or service when, as buyer, he or she furnishes the
7 weight (~~(or)~~), measure, or count by means of which the amount of the
8 commodity, thing or service is determined.

9 ~~((7))~~ (g) Keep for the purpose of sale, advertise, offer or
10 expose for sale or sell any commodity, thing or service in a condition
11 or manner contrary to law or (~~(regulation)~~) rule.

12 ~~((8))~~ (h) Use in retail trade, except in the preparation of
13 packages put up in advance of sale and of medical prescriptions, a
14 (~~(weight or measure)~~) weighing or measuring instrument or device that
15 is not so positioned that its indications may be accurately read and
16 the weighing or measuring operation (~~(observed)~~) observable from some
17 position which may reasonably be assumed by a customer.

18 ~~((9))~~ (i) Knowingly approve or issue an official seal of approval
19 for any weighing or measuring instrument or device known to be
20 incorrect.

21 (j) Fails to disclose to the department or a city sealer any
22 knowledge of information relating to, or observation of, any device or
23 instrument added to or modifying any weighing or measuring instrument
24 or device for the purpose of selling, offering, or exposing for sale,
25 less than the quantity represented of a commodity or calculated to
26 falsify weight or measure, if the person is a service agent.

27 (k) Violate any other provision of this chapter or of the rules
28 (~~(and/or regulations promulgated)~~) adopted under the provisions of this
29 chapter for which a specific penalty has not been prescribed.

1 (2) Any person who, by himself or herself, by his or her agent or
2 employee, or as the agent or employee of another person, performs any
3 of the following acts is subject to a civil penalty of no more than
4 five thousand dollars:

5 (a) Knowingly adds to or modifies any weighing or measuring
6 instrument or device by the addition of a device or instrument that
7 would allow the sale, or the offering or exposure for sale, of less
8 than the quantity represented of a commodity or falsification of weight
9 or measure.

10 (b) Commits as a fourth or subsequent infraction any of the acts
11 listed in subsection (1) of this section.

12 **Sec. 36.** RCW 19.94.530 and 1969 c 67 s 53 are each amended to read
13 as follows:

14 For the purposes of this chapter, proof of the existence of a
15 ~~((weight or measure or a))~~ weighing or measuring instrument or device
16 in or about any building, enclosure, stand, or vehicle in which or from
17 which it is shown that buying or selling is commonly carried on, shall,
18 in the absence of conclusive evidence to the contrary, be presumptive
19 proof of the regular use of such ~~((weight or measure or))~~ weighing or
20 measuring instrument or device for commercial purposes and of such use
21 by the person in charge of such building, enclosure, stand or vehicle.

22 NEW SECTION. **Sec. 37.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 19.94.020 and 1969 c 67 s 2;

25 (2) RCW 19.94.030 and 1969 c 67 s 3;

26 (3) RCW 19.94.040 and 1969 c 67 s 4;

27 (4) RCW 19.94.050 and 1969 c 67 s 5;

28 (5) RCW 19.94.060 and 1969 c 67 s 6;

- 1 (6) RCW 19.94.070 and 1969 c 67 s 7;
- 2 (7) RCW 19.94.080 and 1969 c 67 s 8;
- 3 (8) RCW 19.94.090 and 1969 c 67 s 9;
- 4 (9) RCW 19.94.100 and 1969 c 67 s 10;
- 5 (10) RCW 19.94.110 and 1969 c 67 s 11;
- 6 (11) RCW 19.94.120 and 1969 c 67 s 12;
- 7 (12) RCW 19.94.130 and 1969 c 67 s 13;
- 8 (13) RCW 19.94.140 and 1969 c 67 s 14;
- 9 (14) RCW 19.94.170 and 1969 c 67 s 17;
- 10 (15) RCW 19.94.180 and 1969 c 67 s 18;
- 11 (16) RCW 19.94.200 and 1991 sp.s. c 23 s 7 & 1969 c 67 s 20;
- 12 (17) RCW 19.94.210 and 1969 c 67 s 21;
- 13 (18) RCW 19.94.215 and 1990 c 27 s 1;
- 14 (19) RCW 19.94.270 and 1969 c 67 s 27;
- 15 (20) RCW 19.94.290 and 1991 sp.s. c 23 s 12 & 1969 c 67 s 29;
- 16 (21) RCW 19.94.300 and 1991 sp.s. c 23 s 13 & 1969 c 67 s 30; and
- 17 (22) RCW 19.94.380 and 1969 c 67 s 38.

18 NEW SECTION. **Sec. 38.** (1) The office of financial management
19 shall conduct a review of the state's weights and measures program.
20 The review shall include, but not be limited to:

21 (a) Identification of the benefits of a weights and measures
22 program, taking into account the element of service provided the
23 weighing or measuring instrument or device owners and the element of
24 general consumer protection provided to the consuming public.

25 (b) A survey of other states regarding methods of funding weights
26 and measures programs, frequency of inspection, program organization,
27 and the types of activities included in weights and measures programs.

28 (c) Investigation of the potential error rates for different types
29 and classes of weighing or measuring instruments and devices and

1 determination of the appropriate frequency of inspection for those
2 different types and classes of weighing or measuring instruments and
3 devices.

4 (d) A review of the department of agriculture's current operation
5 of the weights and measures program focusing on whether or not the
6 current program provides at least the minimum services necessary for
7 the efficient operation of commerce, the protection of consumers and
8 the preservation of confidence in products originating in the state of
9 Washington.

10 (e) Investigation of the practicality and revenue potential of
11 alternative funding and more efficient operational mechanisms.

12 (f) A study of the potential efficiency of licensing or registering
13 of private service agents to perform official inspection and testing
14 services.

15 (g) A review of city sealer programs and their relationship to the
16 state weights and measures program.

17 (2) To perform this review, the office of financial management
18 shall form a special task force on weights and measures which shall
19 contain representation from government and industry. This special task
20 force shall include, but need not be limited to, one person
21 representing each of the following entities: The legislature, the
22 department of agriculture, city sealers, service agents, service
23 stations, grocery stores, retailers, food processors and dealers, oil
24 heat dealers, the agricultural community, and liquid propane dealers.
25 This task force shall act in an advisory capacity and work in
26 cooperation with the office of financial management.

27 (3) The office of financial management shall provide
28 recommendations in the following areas:

29 (a) Recommendations on the appropriate funding level and the most
30 efficient organizational form of a weights and measures program

1 sufficient for the efficient operation of commerce and the protection
2 of consumers, including inspection and testing equipment maintenance;
3 and

4 (b) Other recommendations relevant to review or investigations made
5 pursuant to this section.

6 (4) The office of financial management shall report preliminary
7 findings and recommendations to the task force established in
8 subsection (2) of this section by February 28, 1993, and shall report
9 final findings and recommendations to the appropriate legislative
10 committees dealing with commerce, trade, agriculture, and revenue
11 matters no later than June 30, 1993.

12 (5) This section shall expire on January 1, 1994.

13 NEW SECTION. **Sec. 39.** Sections 1, 6 through 8, 10 through 12,
14 19, 23, and 31 of this act are each added to chapter 19.94 RCW.

15 NEW SECTION. **Sec. 40.** RCW 19.94.330, as amended by this act,
16 is recodified as RCW 19.94.255.

17 NEW SECTION. **Sec. 41.** This act shall take effect July 1, 1992.